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FILED
SEP 17
JAMES R. BROWNING, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D.,

No. 420

RAYMOND C. FLEURY,

Petitioner,

vs.

WARDEN OF MARYLAND PENITENTIARY

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF
MARYLAND

RAYMOND C. FLEURY
PROPER PERSON

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

NO._____

RAYMOND C. FLEURY, PETITIONER

VERSUS

WARDEN OF MARYLAND PENITENTIARY
RESPONDENT

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF
MARYLAND

RAYMOND C. FLEURY
PROPER PERSON

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No:_____

RAYMOND C. FLEURY, PETITIONER

VERSUS

WARDEN OF MARYLAND PENITENTIARY
RESPONDENT

PETITION FOR A WRIT OF CERTIORAI

TO THE COURT OF APPEALS OF MARYLAND

Petitioner prays that a Writ of Certiorari issue to review the judgement of the Appeals of Maryland, in the above case on April 14, 1960.

OPINIONS REFERENCE BELOW

The Criminal Court of Baltimore City of Maryland, Courts opinion: In the records on pages:_____ The Court of Appeals of Maryland Courts Opinion in the Record pages: _____.

JURISDICTION

The Judgement of the Court of Appeals of Mary land was filed on May 20, 1960. Copies of the opinions and Judgements are on pages:____ of the Appendix. A order was granted by the Justice Black extending petitioners time for filing Petition for a Writ of Certiorari till and on Sept. 18, 1960. - The Judgement of this court is invoked under 113, U. S. 27, 31, 32, The Fourteenth Amendment of the Consitution of the United States. In part nor shall any state deprive any person of life Liberty or property without due process of Law. Nor deny any person with in its Jurisdiction the equal protection of Law.

STATUTES INVOKED

113 U.S. 27,31,32, 14th. Amendment of the United States Constitution. Maryland Constitution, Article 5, and 23. Bill of Rights are set fourth in Appendix of pages: _____.

QUESTIONS PRESENTED

Petitioner was found guilty of a common law burglary, a felony, in violation of Article 27, Sections 29, and 30, Annotated Code of Maryland, 1957, and sentenced to eight (8) years in the Maryland Penitentiary.

QUESTIONS PRESENTED ARE:

1. Can the State legally use fraudulent docket entries in the place of legal and proper records to keep Petitioner from having a legal contention to his petition in the lower Courts and a reviewable question in the Appeal? In violation to the Maryland Constitution, Article 23, Bill of Rights, and Fourteenth Amendment to the United States Constitution, both state that no person can be deprived of life or liberty without due process of law.

2. Can a conviction of common law burglary, a felony, legally stand on a fraudulent Presentment and Indictment, and illegal arraignment, as the State used the mentioned to obtain the conviction, in violation to Maryland Constitution of the Bill of Rights, Article 5, which states: the inhabitants of Maryland are entitled to the Common Law of England and the course of that law. Also Maryland Constitution, Article 23, and United States Consitution, Fourteenth Amendment both state that no person can be deprived of life or liberty without due process of law.

3. Can the State legally suppress evidence of a tinted conviction, by denying Petitioner the right to obtain through Court action and proper fee, his unabridged Trail Transcript of Testimony of October 10th and 14th, 1958? Said Transcript will show that the State and Petitioner's attorney aided and abetted perjury against your Petitioner and and suppressed evidence of his innocence, in

violation to Maryland Constitution, Article 23, Bill of Rights, and the Federal Constitution, Fourteenth Amendment, both state: "no person can be deprived of life or liberty without due process of law." See argument on page _____.

4. Can the State legally misconstrue, add parts of Petitioner's Transcript of Testimony of Post Conviction Hearing, Docket 180 in the Criminal Court of Baltimore City, to prevent the Petitioner from having a reviewable contention in the Appeal Court to his foremost contentions that the original Presentment and Indictment passed on by the Grand Jury, and arriagnment conducted in Baltimore City Court by Judge Byrnes on July 18th, 1958 to the original indictment # 2631, were not brought against your Petitioner. A review of the original Transcript of the trial would show that the State's only Witness had committed perjury and the State had aided and abetted in the perjury, in violation to Maryland Constitution, Article 23, Bill of Rights, and the Federal Constitution, Fourteenth Amendment, both state: "no person can be deprived of life or liberty without due process of law." See argument page _____.

IN VIOLATION OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND THE MARYLAND CONSTITUTION: ARTICLE 23, BILL OF RIGHTS WHICH GUARANTEEDS DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAW.

STATEMENT OF QUESTIONS PRESENTED

Certified Transcript of Records consisting of Petitioners alleged Docket Entries May Term, 1958, to Indictment No. 2631, submitted by the State to the Appeal court are Fraudulant, to wit: as Follows:

A-July 2, 1958 - Presentment as to each, Filed --ed -- Copies issued - Cepi. Petitioner states the presentment passed on by the Grand Jury called for Ernest Appitito and Raymond C. Fleming, and respectfully request the Honorable Court to summon the original Copy.

1. Defense Attorney sent letter stating that the State did not bring about a presentment against him. See Pages:____. As copy of this letter.

2. Upon requesting a legal presentment of July 2, 1958, the Clerk of Baltimore City Criminal Court sent Petitioner a Certified Copy of a Bogus Presentment, See Pages:___, a copy of the supposed presentment.

B-July 8th, 1958 Indictment filed as to each. Petitioner respectfully requests the Honorable Court to summons the original record. As the Daily Record, a legal news upon publishing the Indictment No.2631, states that an arraignment was to be held on July 18th, 1958, for Ernest W. Appitito and Raymond C. Fleming, see page ____, a copy of the paper as printed. July 18th, 1958, copy pf Indictment served. Receipt filed as to each. Petitioner respectfully requests the Honorable Court to summons Judge Byrnes records of July 18th, 1958. The Court in hearing Post Conviction Petition #195, the Court not only stated that an arraignment had taken place on July 18th, 1958,

that the original Indictment was not brought against Petitioner, page 26, of a copy of the Official Transcript of Testimony, as Follows: The Court: "Ihave the papers here, Mr. Appitito, and the official Transcript which is in the case as follows: Before Judge Byrnes, July 18th, 1958, Indictment No. 2631, which is the official indictment in State Versus Ernest Appitito and Raymond Charles Fleming."
See the copy of this Transcript submitted to the Court. September 18th 1958 arraignment was illegal as the Grand Jury made no amend - ment to the original Indictment No. 2631, which still called for Ernest W. Appitito and Raymond C. Fleming , nor does the supposed Docket Entries show any proceedings on which the original Indictment, No. 2631 could have been changed, and yet Docket Entries state that an arraignment was held on September 18th, 1958, calling for Ernest W. Appitito and Raymond C. Fleury without any changes being made to the original Indictment.
This arraignment is fraudulently listed on petitioners docket entries, as it could't be a legal arraignment for the reasons stated above.
October 10,1958 - Submitted under plea as to each, Not Guilty.
Oppenheimer - Judge
This above mentioned trial was illegal for the presentment, indictment and arraignment, was for Ernest Appitito and Raymond C. Fleming, and the docket entries show that the indictment No. 2631, was never amended; it still called for Ernest W. Appitito & Raymond C. Fleming , thus the state Illegally tried Raymond C. Fluery To Indictment 2631.

STATMENT OF QUESTIONS PRESENTED

Petitioner did not have a legal presentment or arraignment , as required by Maryland Law. An arraignment was held in Baltimore City Criminal Court on July 18th, 1958, before Judge Byrnes to Indictment 2631: Ernest Appitito and Raymond Fleming, said arraignment is not listed on petitioners Certified Docket Entries, but Judge Byrnes dockets and records will show that said Indictment No.2631 was processed against Ernest Appitito and Raymond C. Fleming on July 18th, 1958. Docket Entries list Petitioners supposed arraignment on September 18th, 1958, to Indictment No.2631, charging Ernest W. Appitito and Raymond C. Fleury. At Petitioners trial in Baltimore City Criminal Court on October 10th, 1958, the Clerk of the Court read the names of Ernest W. Appitito and Raymond C. Fleury to Indictment No.2631. Defense Attorney waived the reading of said Indictment. This Indictment was illegal in regards to Petitioner, as the formal proceedings to Indictment No.2631 had been completed in the arraignment of July 18th 1958 before Judge Byrnes. There is no record of any amendment to the original Indictment No. 2631 which was brought against Ernest Appitito and Raymond C. Fleming, as the Docket Entries show that no pleas or proceedings were brought in the case between July 18th, 1958 arraignment and Septment 18th, 1958 supposed arraignment as the original Indictment 2631 calling for Ernest W. Appitito and Raymond C. Fleming had been amended an any manner. It was illegal to try Raymond C. Fleury on Indictment No. 2631.
As These Maryland L_ws have been violated:

Accusation of felony are made by indictment found by Grand Jury. (Clark Cr. Proc.46) Hawthorne Vs. State, 56 Md.530: and Negro Hammond Vs. State: 14 Md. 135:
(The Court Cannot in manner of substance, allow the State to amend the Indictment).
In infamous crimes, an arraignment is necessary. Basta Vs. State: 133 Md. 568

STATEMENT OF THE QUESTIONS PRESENTED
SUPPRESSING TRANSCRIPT OF COLLUSION & PERJURY
****

I shall not pursue the argument of perjury and suppression of evidence at my trial, as the documentary proof lies in the unabridged Transcript of Testimony, that cannot be obtained for proper fee or by Court action, as will be shown. But I shall present proof that the State is SuppressingPetitioners unabridged Transcript of Testimony of October 10th and 14th 1958, that is Colaborating proof of Petitioners allegations, accusing the State of aiding and abetting perjury and suppression of evidence of Petititoners innocence.

EXHIBIT 1 IS PROOF OF THE ABRIDGED TRANSCRIPT OF TESTIMONY:

Appellant is submitting, under separate cover, copy of transcript (Agreed Statement of Facts) October 10th, 1958, Ernest Appitito and Raymon Fleury, officially indorsed as agreed statement of facts. (It is agreed and stipulated by and between Counsel for the state and Counselfor the defendants that the within transcript of testimony, be, and the same is hereby accepted as the Agreed Statement of Facts in the instant case. Assistant State's Attorney _____, Counsel for Defendants, ____, Counsel for Defendants_____.

EXHIBIT ": SAID TRANSCRIPT WAS REPRESENTED AS AN ABRIDGED COPY: TO WIT: CERTIFIED DOCKET ENTRIES MAY TERM 1958.

A. October 31st, 1958. Order of Court extending the time for filing of testimony (Agreed Statement of facts to October 31st, 1958) Filed, OPPENHEIMER, Judge.
B. October 31, 1958 Transcript of Testimony (Agreed Statement of Facts) Filed. Transcript NO: 1603.

C. November 6th, 1958. Original papers, two (2) copies of Transcript of Testimony, (Agreed Statement of Facts) together with certified copy of docket entries, transmitted to the Clerk of the Supreme Bench of Baltimore City.

D. December 17th, 1958. Original papers Transcript of testimony (Agreed Statement of facts) together with order of the Supreme Bench of Baltimore City.

****

SUMMARY

The aforegoing is conclusive proof that Transcript of Testimony (Agreed Statement of Facts) October 10th, 1958, represents an abridged copy of testimony, indorsedby the Assistant State's Attorney, Appellants Attorney officiated by Judge Oppenheimer, and thus honored by the Supreme Bench of Baltimore City, on motion for a new trial, but contrary to Documentary manifestation, the State in being beseeched and besieged for the unabridged copy of the original transcript of testimony, by Appellant and family, writs and Attorney General, Complied by re-issuing an exact copy of the transcript of testimony (Agreed Statement of facts) and affixed the distinction October 10th and 14th, 1958, and omitted the declaration (Agreed Statement of Facts) and Substituted on oath: Quote: "I hereby certify that the aforegoing is an accurate transcript of my notes, made in Court at the time of the trial".

THE HERE ARGUMENTATION IS TO SHOW THAT THE STATE IS ATTEMPTING TO MISREPRESENT THE AGREED STATEMENT OF FACTS TRANSCRIPT, AS THE UNABRIDGED TRANSCRIPT OF TESTIMONY OF PETITIONERS TRAIL, AND PETITIONERS ATTEMPTS TO OBTAIN SAID UNABRIDGED COPY OF TRANSCRIPT.

Appellant is submitting under seperate cover, a copy of personated Transcript of Testimony that is misrepresented as the unabridged copy of the original Transcript of trial, dated October 10th, and 14th, 1958. and the State accordingly is personating said abridged Transcript of Testimony (Agreed Statement of Facts) as the unabridged copy of the original Transcript of testimony, impaired by flaunting the law.

Appellant respectfully directs this Honorable Court to Suphoena the original complete Transcript of Testimony of trial hearing, October 10th and 14th, 1958, before Judge Oppenheimer. As every relief has been exhausted in quest of Testimony of said hearing, to wit:

1. Appellant's family and friends have repeatedly beseeched the State for the unabridged copy of Tran script of Testimony for about six (6) months; to no avail:

2. Petition for Writ of Mandamus, with fee was filed with Rutherford, Clerk of Baltimore City Court, directing Court Reporter Joseph Moylan to show Cause why he would not produce an unabridged copy of the Transcript of Testimony of said trial. Rutherford Esq. failed to docket said petition and and presented the petition and fee to Joseph Moylan, who naturally merely mailed petition and fee back to petitioner, Without any action at all being considered.

3. Petition for writ of Mandamus was filed in Federal District Court, Baltimore City, directing said court to order Rutherford, Clerk, of Baltimore City, Court to show cause why said Mandamus was not docketed as the Law required (Clerk of Federal Court refused to docket said Petition) alleging Mandamus is illegal in Federal Court.

4. AND Finally after repeatedly writing and threatening all concerned with Court action, the Attorney General's office instructed Court Reporter Joseph Moylan, to comply with request (for unabridged copy of the Transcript of testimony) but to this date I have not recieved it, except for the abridged copy, that is being represented as the unabridged Transcript. Appellant has documentary proof of all that is alleged.

Comparing both transcripts, this Honorable Court will concur on the identicalness of said Transcripts, and Judically weighing the same, one wouldknow that petitioner is being denied the unabridged Transcript of Testimony and being unreasonably persecuted, and the following exhibit is explanitory; to Wit:

Andrew J. Graham
Attorney and Counselor at Law
447 Equitable Bldg.
Baltimore 2, Md.
Oct. 20th. 1959

Miss Alice Koone
Atty. at Law
1108 Fidelity Bldg.

Re: State VS-Appitito And Fleury

Miss Koone:

I have as you requested, reviewed my notes concerning the matter in Caption.

I was present as counsel for both Defendants this morning after their apprehension and again at the preliminary hearing at the Northern Police Station before Magistrate Henry L. Rogers, the second morning after the apprehension.

My records indicate that they were apprehended on June 27, 1958, and subsequently incarcerated in the Northern Police Station removed from there on June 28, 1959, for a period of approximately four hours to the central Police Station, where I was not permitted to see them, and then returned to

the Northern Police Station where I was finally granted an opportunity of speaking with both Defendants at approximately 4 P. M. after having tried all day.

As I recall, the preliminary hearing on Sunday, June 29, 1958, was not a lengthy one in that two policemen at the most testified, and William Boulton Kelly, Sr. Testified but was unable on my cross examination to make a postive identification before the Magistrate of either one of the Defendants.

The Magistrate ruled, not with standing the elder Kelly's inability to identify, that the crime was of such nature that the evidence should be presented too the Grand Jury.

If I can be of any further assistance, please do not hesitate to call me.

Very truly your's
Andrew J. Graham"

STATEMENT OF QUESTION PRESENTED

Petitioner Contended that the State misconstrued added parts and ommited parts of petitioners Post Conviction Transcript of testimony Docket 180 to keep petitioner from having a reviewable contention in the appeal Court as it would have shown that the lower Court was prejudice in denying the petition. Petitioners proof of this allegation are the original records

In violation of fourteenth ammendment of the United States Consitution and the Maryland Constitution Article 23, Bill of Rights which guarantee due process of Law.

REASON FOR GRANTING THE WRIT.

The decision of the Court below should be reviewed because the State had so far sanctioned such a departure by a lower Court as to call for an exercise of this Court's power to supervision, as Petitioner did not receive a fair and impartial hearing at his trial, Post Conviction Hearing # 180, and on application for appeal #108.

1. The Court of first instance received all original procedure records under Post Conviction Procedure Rule 645-B (b) and heard Petitioners plea, and Petitioner contained that he could not obtain all the doctumentary proof that was needed, as the State was suppressing the July 18th, 1958 arraignment of Ernest Appitito and Raymond C. Fleming, before Judge Byrnes, and the presentment, indictment and docket entries of Ernest Appitito and Fleming, so all Petitioner could do was to plead the contention, and the Court refused to coraborate said contention with the record in its possession.

2. Petitioner could not get a fair and impartial hearing on application for appeal # 108 as Petitioners Post Conviction Transcript of Testimony # 180 was misconscrewed, foreig n Testimony inserted, and is deleted of all Petitioners foremost contentions and the Appeal Court ruling is at a disadvantage in preparing Petition for Certiorari, as the Maryland Appeal Court has refused Petitioner docket entries, transcript of testimony and all other pertinent papers that were filed by the State for Petitioners application for Appeal Hearing. Petitioner filed Writ of Habeas Corpus in Federal Cou rt, for the District of Baltimore City, ans Judge Chestnut refused to make the appeal grant Petitioner permission to purchase said records, the Transcript of record from the Criminal Court of Baltimore, to the Court of Appeals of Maryland sent to Petitioner by the

Baltimore City Clerk is for Petitioners docket entries only. But the Assistant Attorney General, Joseph S. Kaufman in his argument, claims the State adopts the memorandum of the Assistant States Attorney, which is contained on pages 30 and 34 of the Record. Petitioner cannot find out what page 30 and 34 of the record is, so Petitioner does not know how to properly prepare his case because the States underhand method of circumventing justice.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that this Petition for a Writ of Certiorari should be granted.

RAYMOND CHARLES FLEURY
MARYLAND PENITENTIARY
954 FORREST STREET
BALTIMORE 2, MARYLAND

APPENDIX TO PETITION FOR CERTIORARI
OPINION OF COURT OF APPEALS

OF MARYLAND

IN THE COURT OF APPEALS

OF MARYLAND

108

RAYMOND C. FLEURY, APPELLANT
VERSUS
WARDEN OF MARYLAND PENITENTIARY
APPELLIE

Anpeal from Baltimore City, Criminal Court of the State of Maryland.

(April 14, 1960)

Before Chief Judge C. J. Bruene-Per Curiam. This Appeal is from a judgement of a Conviction Procedure hearing in the Baltimore City Criminal Court, on January 14, 1960. Docket # 180.

OPINION OF THE COURT OF APPEALS
OF MARYLAND

September Term, 1959 No: 108 Per Curian:

For the reason stated in the opinion of the Judge Sodaro filed in the Criminal Court of Baltimore for denying the application of Raymon C. Fleury under the Post Conviction Procedure Act, and for the further reason stated below, Fleury's application for leave to appeal is denied. Judge Sodaro found that Fleury's allegations of the State's knowing use of perjured testimony were so vague and indefinite as to be insufficient. To this we add that his application admits that the allegedly untrue testimony does not appear in the transcript of the testimony of his trial and that the record of his hearing under the Post Conviction Procedure Act shows no effort or testimony on Fleury's part to substantiate the allegations of his petition as to this matter.

(Filed: May 20, 1960) APPLICATION DENIED

OPINION BELOW

On January 20th, 1960, the Criminal Court of Baltimore City, State of Maryland, dismissed Post Conviction Petition, Docket 180 in this case:

IN RE:	IN THE CRIMINAL COURT
RAYMOND C. FLEURY	OF
Hearing under the Post	BALTIMORE
Conviction Procedure Act	Ind. #2631/1958
	P.C.P.A. #180/1959

ORDER DENYING RELIEF AND DISMISSING PETITION.

The Petitioner has filed a petition under the Post Conviction Act, and was present and represented by an attorney of his choice at a hearing before me on January 14, 1960.

The Petitioner, age 31, was jointly charged with another defendant in a burglary indictment on July 8, 1958. He was arraigned on September 18, 1958, (having in the meantime been released on professional bail) and entered a plea of Not Guilty. On October 10, 1958, he was tried before Judge Reuben Oppenheimer under a plea of Not Guilty and was found Guilty on the first count (Common Law Burglary). Judgement was deferred Pending a Motion for New Trial. December 13, 1958, the Motion for New Trial was denied by the Supreme Bench of Baltimore, and on December 29, 1958, he was sentenced to Eight years in the Maryland Pen intentiary. He was represented in all of these proceedings by competent attorneys.

On September 4, 1959, the Petitioner wrote a letter to Judge reuben Oppenheimer complaining that he was denied the right to obtain law books and was denied the right to acquire experts from the F. B. I. to check certain matters in his case. Judge Oppenheimer directed that the letter be considered as a Petition under the Act.

Subsequently the Petitioner employed his present attorny and, by leave of Court, waived and abandoned his first original contention.

On the Petitioner's application as well as upon his testimony at the hearing, it is clear that he is attempting to have this proceeding serve again as a Motion for New Trial or as an Appeal. No appeal was noted and the Motion for New Trial, as Above stated, was denied by the Supreme Bench. This Act is not a substitute for, nor does it affect any remedies which are incident to the proceedings in the trial court, or any remedy of direct review of the sentence or conviction. All of the alleged errors he now contends were known to him, and he was represented by able and experienced counsel about whose conduct of his case he expressed no dissatisfaction to the trial judge either before, during or after his trial and conviction. The Court of Appeals has consistently held that the same or similar contentions, as made by the Petitioner in the instant proceedings, specifically with respect to his contentions Nos. 1, 2, and 9.

As to his contention that he was never personally given a copy of the indictment, the Court in Lucas v. Warden, 209 Md. 645, said: "The Petitioner contends that he did not receive a copy of indictment *-*-* Such fact would not entitle him to a release from imprisonment on habeas corpus". However, certified copy of the docket entries show that a copy of said indictment was duly served on him July 18, 1958.

Under Maryland Rules of Procedure - Criminal Causes, Rule 725b specifically provides: "Defense and objections based on defects in the institution of the prosecution or in the indictment * * * may be raised only by motion before trial * * * Failure to present or objection * * * constitutes a waiver thereof".

With respect to his alleged irregular arrest, the Court of Appeals in a number of cases has held that after conviction, allegations of irregularities in the preliminary proceeding or procedures will not be heard under the Act anymore than in habeas corpus cases. Wagner v. Warden, 205 Md. 648.

With respect to his third contention, concerning the alleged irregular arraignment, the use of an alias merely goes to the regularity of the proceedings and not to the jurisdiction of the court and cannot now be collaterally attached.

With respect to his fourth, fifth and tenth contentions, it has been held on numerous occasions that the question of the guilt or innocence of the Petitioner, and the admissibility, competency, weight or sufficiency of the evidence cannot be raised in collateral proceedings. Hix v. Warden 213 Md. 625.

With respect to his sixth contention, his claim of perjured testimony is unavailing in the absence of definite allegations that the State knew the testimony was perjured, and a Statement of facts showing active participation of State officers in its use. Savoy v. Warden, 216 Md. 616.

His seventh contention, that he was forced to give testimony against himself not included in the trial record also goes to the admissibility of evidence, and was an incident of the trial at which the Petitioner was represented by counsel, and having elected to testify in his own behalf cannot now be collaterally attavked.

His eighth contention has no merit in this proceeding. His Counsel was present at all stages of the original proceeding and the official papers show that his counsel did issue subpoenas for witnesses. Nevertheless such allegations cannot now be collaterally attacked. McCutheon vs. Warden, 215 Md. 616.

For the above reasons it is ORDERED this 20th day of January, 1960, that the Petition be and it is hereby dismissed.

ANSELM SODARO, J.

TRANSCRIPT OF RECORD - SUBMITTED TO COURT OF APPEALS: WHICH WAS SUBMITTED BY THE BALTIMORE CITY CRIMINAL COURT RECORD AS FOLLOWS:

No. 180, September Term, 1959
(LEAVE BLANK)

TRANSCRIPT OF RECORD
FROM THE
CRIMINAL COURT OF BALTIMORE

Denial and Dismissal of Petition under Post Conviction Procedure Act

IN THE CASE OF
RAYMOND CHARLES FLEURY
APPELLANT

VS.
WARDEN OF THE MARYLAND PENITENTIARY
APPELLEE

TO THE
COURT OF APPEALS OF MARYLAND

Raymond Charles Fleury #2908 In Proper Person
Maryland Penitentiary
954 Forrest Street FOR APPELLANT
Baltimore-2-Maryland

HONORABLE C. FERDINAND SYBERT
ATTORNEY GENERAL OF MARYLAND FOR APPELLEE

Filed _____ _____
(LEAVE BLANK)

STATE OF MARYLAND : IN THE CRIMINAL COURT
VS. OF
RAYMOND CHARLES FLEURY : BALTIMORE
ERNEST WILLIAM APPITITO (ALIAS)
APPITO :::::::::::::::::::::::::::::::::::

Docket 1958
May Term.
number 2631
Charge:--Burglary
Prosecuting witness--William Boulton Kelly, Sr.

Appearance of Mr. A. Levin, Attorney, as to each, filed.
June 29, 1958--Recognizance filed, as to Appitito.
June 30, 1958--Commitmen. filed, jail, as to Fleury,.
June 30, 1958--Recognizance taken as to Fleury; Maurice B. Berman, $ 1,500.00
July 2, 1958--Recognizance taken as to Appitito; Maurice B. Berman, $ 1, 500.00
July 2, 1958--Presentment as to eac, filed--e.d. Capieas Issued.--Cepi,Bail as to each.
July 8, 1958--Indictment filed as to each.
July 18, 1958--Copy of indictment Served-Receint filed as to each.
September 18, 1958-Arraigned and Pleads, Not Guilty, as to each.
October 10, 1958--Submits under plea as to each, Not Guilty and issue Before Oppenheimer, Judge.

This record was frafulent, because of the reasons listed earlier in the Petition.

COPY OF letterPetitioners Attorney stating no presentment was brou ght about in the case by the State.

Law Offices
Harry O. Levin& Marshall Levin
10 Light St.
Baltimore 2, Mary land
January 5, 1960

Mr. Raymond Fluery
954 Forrest Street
Baltimore 1, Maryland

Dear Raymond:

As per your letter received today, please find enclosed indictment you requested. There was no presentment the indictment constituted the charge against you. I also enclose copy of motion.for New Trial in case you do not already have same.

Thank you for wishing me good luck and I also wish you good luck. As to the forthcoming position, it is a non-paying appointment which apparently no one else wants, but I will enjoy it if appointed be cause the work done by the Equal Employment Committee is Important.

Wry truly yours
(SIGNED MARSHALL)
Marshall Levin

Presentment sent to Petitioner by Baltimore City Court Clerk.

STATE OF MARYLAND, CITY OF BALTIMORE, TO WIT:

To the Warden of the Baltimore City Jail, Greeting:

You are Herby commanded to receive from any officer the body of Raymon Charles Fleury, wh. Age 31, who is charged on the oath of William Boulton Kelly, Sr., with Burglariously breaking and entering in the nighttime the premises 807 St. George Rd., a Dwelling, with the intent to steal therefrom, in Baltimore City, State of Maryland, on or about the 27th dayof June 1958.

Hearing had, and...he, the said Raymond Charles Fleury safely keep in your jail and custody until...he shall be thence delivered according to Law, Hereof fail not at your peril.

Witness, The Subscriber, a Police Justice of said State, in and for the City of aforesaid, who hath hereto set his hand and seal this------ 29th---day of -----June---------1958.

(Signed) Henry L. Roger...J. P. (Seal)
NORTHERN.....District

Plea; NG

****

Upon the back of the aforegoing Presentment was endorsed as follows:

PRESENTED
July 2 1958

(Signed) H. G. McCartney
Asst. Foreman

Filed -- Jun 30 1958

True Copy* * April 12, 1960

Lawernce R. Mooney
Lawernce R. Mooney, Clerk
Criminal Court of Baltimore

ARRAIGNMENT RECORD AS LISTED IN THE DAILY RECCRD NEWS PAPER FOR THE CRIMINAL COURT OF BALTIMORE CITY, JULY 18, 1958.

ESCAPE---Theodore Ware

MANSLAUGHTER---Charlie Williams-&-Mary Hammel

BRIBERY---Robert H. Canty-&-Crosby Derr

BURGLARY---Ernest Appitito-&-Raymond C. Fleming

COPY OF SUPPOSED TRUE BILL
INDICTMENT #2631

STATE OF MARYLAND
VS.
ERNEST WILLIAM APPITITO Alias
Appito 37 and
Raymond CHARLES FLEURY 31

Indictment

(TRUE BILL)

Foreman

Filed

WITNESSES:
Sgt. Schaeffer
Off. Cu Ilum
Off. Dixon
Off. Kropfelder
Off. Mulligan ND
Wm. B. Kelly, Sr.
Wm. B. Kelly, Jr.

BURGLARY-COMMON LAW.

STATE OF MARYLAND
City of Baltimore, to Wit:

The Jurors of the state of Maryland, for the body of the City of Baltimore do on their oath present: ERNEST WILLIAM APPITITO other wise called APPITO that otherwise called JOHN BAKER AND RAYMOND CHARLES FLEURY late of said city, on the twenty seventh dayof June in the year of our Lord nineteen hundred and fifty-eight about the hour of thirty minutes past ten o'clock in the night of the same day, at the city of Baltimore aforesaid, the dwelling house of-WILLIAM BOULTON, THE ELDER, in the same dwelling house then and there being found, then and there feloniously and burgiously to steal, take and carry away, contary to the form of the Act of Assembly in such case made and provided, and against peace, goverment and dignity of the state.

THE COURT OF APPEALS-ANNAPOLIS, MARYLAND

May 20, 1960

Charles Raymond Fleury #5908
Maryland Penitentiary
954 Forrest St.
Baltimore 2, Maryland.

Dear Sir:

We are returning to you herewith the following:

Stenographic Transcripts in the matter of #2631/1958 - State of Maryland vs. Ernest William Appitito and Raymond Charles Fleury, in the Criminal Court of Baltimore, Part II, October 10 & 14, 1958.

Stenographic record in the Criminal Court of Baltimore City, Part V, in the matter of Petition No. 195, State of Maryland vs. Ernest William Appitito, before Sodaro, J. March 11, 1960.

Very truly yours,
/S/ J. Lloyd Young
Clerk

JLY/ojr
Enclosures
VIACertified Mail.

Note: Receipt for same signed by Thomas Harrell on May 21, 1960.